

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6645

BILL NUMBER: HB 1116

DATE PREPARED: Jan 31, 2002

BILL AMENDED: Jan 30, 2002

SUBJECT: IURC Enforcement and Merger Authority.

FISCAL ANALYST: John Parkey

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**FUNDS AFFECTED: GENERAL
 X DEDICATED
 FEDERAL**

IMPACT: State

Summary of Legislation: (Amended) This bill repeals current provision granting the Indiana Utility Regulatory Commission (IURC) enforcement powers over utilities and replaces it with provision authorizing the IURC to impose civil penalties of up to \$5,000 or \$15,000 on public utilities other than telephone companies that provide local service for violations of or noncompliance with utility statutes, rules, and orders. The bill requires the civil penalties to be: (1) deposited in the commission public utility fund account; (2) refunded directly to customers; or (3) awarded to another utility harmed by the violation or noncompliance. The bill permits the Attorney General to recover attorney fees in successful actions. The bill authorizes the IURC to order a utility to provide service in emergency situations. The bill authorizes the IURC to require a public utility to post a reasonable performance bond before operating.

This bill provides that the IURC has jurisdiction over purchases of clean coal technology.

It also provides that the IURC has jurisdiction over mergers of public utilities, utility companies, and holding companies of public utilities and utility companies. The bill requires the commission to issue an order not later than 180 days after a petition for approval of a merger is filed.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) *IURC Jurisdiction:* This bill increases the authority of the IURC over mergers, reorganizations, or the acquisition of control of certain public utilities as well as certain transaction involving clean coal technology. While this bill will expand the IURC's authority and potentially increase the number of hearings held by the IURC, any impact on the Commission is expected to be absorbed using its current budget and resources. The Office of the Utility Consumer Counselor (OUCC) would also participate in any utility merger approval proceedings. Any additional cost to the OUCC is also expected to be covered using existing personnel and resources.

IURC Enforcement Authority: This proposal extends the IURC's fining and enforcement authority over regulated gas and electric utilities. The proposal would give the IURC the ability to: impose civil penalties, issue cease and desist orders, and modify permits issued by the Commission. The IURC is expected to be able to absorb any additional administrative costs associated with this proposal.

Attorney General's Office: The proposal also authorizes the Office of the Attorney General to bring an action to enforce an order of the Commission. While this provision may increase the Attorney General's costs, it allows the Office to recover costs if the state prevails in the action.

Background on IURC and OUCC Funding: The operating budgets of the IURC and OUCC are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2001, fees from the utilities and fines generated approximately \$8.6 M.

Explanation of State Revenues: (Revised) *IURC Enforcement Authority:* Under this bill, the IURC could impose a civil penalty of up to \$5,000 for the first violation or act of noncompliance by an utility and \$15,00 for the second and subsequent violations. Fines collected under this provision would be directed to:

- 1) customers of the violating utility, if the violation directly impacts ratepayers;
- 2) another utility, if the violation directly harms another utility; or
- 3) the IURC for public interest projects, if the violation neither directly impacts ratepayers or harms another utility.

It is not known in how many instances the IURC would impose monetary penalties

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Office of the Attorney General.

Local Agencies Affected:

Information Sources: Mike Leppert, Executive Director, IURC, (317) 232-2714.